

EXHIBIT S

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

ADRIAN BERBER, on behalf of himself and
all others similarly situated,
Plaintiff,

v.

HUTCHINSON TREE SERVICE,
NORTHSTAR ENERGY SERVICES, INC.
and PIEDMONT NATURAL GAS, INC.,
AND CRAIG HUTCHINSON,
Defendants

CA No. 5:15-CV-143-D

TO: ALL CURRENT AND FORMER EMPLOYEES OF HUTCHINSON TREE SERVICE, NORTHSTAR ENERGY SERVICES, INC. AND PIEDMONT NATURAL GAS, INC., AND CRAIG HUTCHINSON WHO PERFORMED WORK ON PIEDMONT'S GAS PIPELINES AND RIGHT-OF-WAY THROUGHOUT, AT A MINIMUM, VARIOUS PARTS OF NORTH CAROLINA, WHOSE DUTIES INCLUDED, BUT WERE NOT LIMITED TO, TREE PRUNING, TREE REMOVAL, TREE TRIMMING, LAND CLEARING, AND STUMP GRINDING FOR DEFENDANTS HUTCHINSON TREE SERVICE, CRAIG HUTCHINSON, NORTHSTAR ENERGY SERVICES, INC., AND PIEDMONT NATURAL GAS, INC., WHOM NAMED PLAINTIFF ALLEGES JOINTLY EMPLOYED HIM AND ALL OF THOSE SIMILARLY SITUATED EMPLOYEES, WHO PAID NAMED PLAINTIFF AND ALL SIMILARLY SITUATED EMPLOYEES AS LUMP-SUM OR HOURLY-PAID LABORERS, AND WHO SUFFERED OR PERMITTED NAMED PLAINTIFF AND ALL SIMILARLY SITUATED EMPLOYEES TO WORK WHILE NOT BEING PAID THEIR APPROPRIATE REGULAR-RATE, STRAIGHT-TIME, PROMISED RATE(S), AND OVERTIME COMPENSATION FOR ALL HOURS WORKED, AT ANY TIME FROM APRIL 3, 2012, UNTIL THE TERMINATION OF THE CONTRACT, OR UNTIL APPROXIMATELY JANUARY, 2015;

This is a Court-authorized Notice. This is not a solicitation from a lawyer.

Some former employees of Hutchison Tree Service, Northstar Energy Services, Inc., and Piedmont Natural Gas, Inc have sued Hutchison Tree Service, Northstar Energy Services, Inc., Piedmont Natural Gas, Inc and Craig Hutchison (referred to in this notice as "Defendants")¹ claiming Defendants failed to pay all wages, including overtime

¹Defendants Northstar and Piedmont dispute that they jointly employee Named Plaintiff and all

premium pay, to the employees who performed work on piedmont's gas pipelines and right-of-way.

The Court has allowed the lawsuit to be certified as a class action under the North Carolina Wage and Hour Act ("NCWHA") and as a collective action under the Federal Fair Labor Standards Act ("FLSA") on behalf of employees affected by Defendants' pay policies.

The Court has not decided whether Defendants did anything wrong. There is no money available now, and no guarantee there will be any. However, your legal rights are affected, and you have a choice to make now, and you must act before (ninety days from the date notice is mailed), 2017:

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS LAWSUIT

FEDERAL LAW CLAIM

WHAT YOU MAY DO:

FILL OUT AND SEND IN THE CONSENT TO JOIN FORM ENCLOSED IN THIS NOTICE.	By filling out and sending in the Consent Form, you will be bound by all decisions of the Court and will have the right to share in a monetary recovery, if any. You will also give up the right to sue Defendants separately about the same legal claims in this case.
DO NOTHING: STAY OUT OF THE CASE. HOWEVER, YOU ARE STILL A MEMBER OF THE CLASS AS STATED BELOW.	If you do not fill out and send in the Consent to Join Form you will not become a party to this case. You will not be bound by any decision of the Court and will not share in any potential monetary recovery, if any that may be awarded. But you keep any rights to sue Defendants separately about the same legal claims in the case, provided you do so in a timely manner.

NORTH CAROLINA STATE LAW CLAIM

WHAT YOU MAY DO:

YOU ARE AUTOMATICALLY A	You will be represented by the attorneys
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those similarly situated Employees. This issue will be determined by the Court later in this lawsuit.

MEMBER OF THIS CASE UNLESS YOU “OPT OUT”.	designated by the Court to represent the class (“class counsel”) unless you exclude yourself from the class.
IF YOU WISH TO EXCLUDE YOURSELF, YOU MUST OPT-OUT.	If you do not want to participate in this class action part of the case, you must send the opt-out form by mail or fax to: Gilda A. Hernandez, Esq., The Law Offices of Gilda A. Hernandez, PLLC, 1020 Southhill Dr., Ste 130, Cary, NC 27513. 919-741-8693 or Derek Braziel, Esq., Lee & Braziel, LLP, 1801 N. Lamar St. Suite 325, Dallas, TX 75202. 214-749-1400. If you do not participate in this class action part of the lawsuit, you will not be eligible to receive any benefits in the event that a settlement or judgment is obtained on this claim. If you do not opt-out of this class action you will be bound by the judgment of the Court on all issues, whether favorable or unfavorable.

BACKGROUND INFORMATION

1. WHY AM I GETTING THIS NOTICE?

The purpose of this Notice is to:

1. Inform you of the existence of a case in which you are potentially eligible to participate;
2. Advise you of how your rights may be affected by this case; and
3. Instruct you on the procedure for participating in this case, if you decide to join in.

Defendants’ records reflect that you worked for the company on Piedmont’s gas pipelines and right-of-way at some point between April 3, 2012, until the termination of the contract, or until approximately January, 2015.

The Court has certified a class and collective action lawsuit that may affect you. A trial may be necessary to decide whether the claims being made against Defendants on your behalf are correct or whether defendants’ defenses to those claims are correct. The Honorable James C. Dever III, a Chief District Court Judge in the United States District Court for the Eastern District of North Carolina is overseeing this lawsuit.

2. WHAT IS THE LAWSUIT ABOUT?

On April 3, 2015 an action was filed against Defendants Hutchison Tree Service, Northstar

Energy Services, Inc., Piedmont Natural Gas, Inc and Craig Hutchison (“Defendants”) ² on behalf of Named Plaintiff Adrian Berber, and all other similarly situated individuals who worked for the company on Piedmont’s gas pipelines and right-of-way. Specifically, Plaintiffs allege claims in this lawsuit on behalf of themselves and all other employees: (1) Defendants failed to pay them overtime premium pay for each hour they worked above 40 in a week; and (2) refused to pay employees for time spent loading tools and materials onto trucks at Defendants’ yard before going to their assigned job site, travel time, and after returning from the jobsite for time spent unloading equipment.

Plaintiff seek back pay wages and liquidated damages for themselves and all other current or former employees who worked for the company on Piedmont’s gas pipelines and right-of-way since [Insert date three years from date of Court’s Order granting certification]. Defendants deny any wrongdoing and contend that all employees have been properly paid for all work they performed.

3. WHAT IS THIS CASE ABOUT PURSUANT TO THE NORTH CAROLINA CLAIMS?

In the state law part of this lawsuit, Plaintiffs claim that Defendants must pay back wages for the actual hours worked, including but not limited to, pre and post shift activities ,accrued and unpaid regular and overtime wages, plus an equal amount in additional liquidated damages, interests, plus costs in attorney’s fees.

4. DOES THE LAW PROTECT ME FROM RETALIATION?

Yes. If you decide to join this case or participate in this case in any way, federal law prohibits Defendants from retaliating against you in any way.

5. WHAT ABOUT IMMIGRATION STATUS?

Your immigration status will not be the subject of this lawsuit. You are entitled to seek a recovery regardless of your immigration status.

6. HOW DO I KNOW IF I AM PART OF THIS CLASS ACTION?

You may be a member of the FLSA collective action by returning the opt-in form if you worked for Hutchison Tree Service, Northstar Energy Services, Inc., and Piedmont Natural Gas, Inc. on Piedmont’s gas pipelines and right-of-way at some point between April 3, 2012, until

²Defendants Northstar and Piedmont dispute that they jointly employee Named Plaintiff and all those similarly situated Employees. This issue will be determined by the Court later in this lawsuit.

the termination of the contract, or until approximately January, 2015.

You are a member of the class action if you worked for Hutchison Tree Service, Northstar Energy Services, Inc., and Piedmont Natural Gas, Inc. on Piedmont's gas pipelines and right-of-way at some point between April 3, 2012, until the termination of the contract, or until approximately January, 2015.

YOUR RIGHTS AND OPTIONS

7. HOW DO I JOIN THIS CASE AND WHAT HAPPENS NEXT?

If you wish to join this case, you must complete the attached "Consent to Join" form and return it to the address at the bottom of the form in the business reply envelope included. **If your completed Consent to Join form is not postmarked on or before that date, you will not be allowed to join this case.**

- **If you decide to join this lawsuit, we will keep you informed of the status of the case.**

THIS FORM MUST BE POSTMARKED NO LATER THAN [INSERT DATE NINETY DAYS FROM THE DATE NOTICE IS MAILED TO CLASS MEMBERS, 2017].

Joining this case does not guarantee that you will receive any money from the case because a monetary recovery is not certain. If you join this case, you will be bound by any judgment entered by the Court, whether favorable or unfavorable and you will forfeit the right to sue Defendants as an individual for the same claims made in this case.

8. IF THE EMPLOYEE IS SUCCESSFUL IN THIS CASE, WHAT MONEY MIGHT I RECEIVE?

The Plaintiff seeks money for themselves and other Defendants' employees, including you, should you decide to join this case. If particular, he seeks:

- (1) Backpay for unpaid regular and overtime hours worked at straight-time and time and one-half for hours over 40 per week;
- (2) Liquidated or doubled monetary damages;
- (3) That Defendants pay Plaintiff's attorneys fees; and
- (4) That Defendants pay Plaintiff's costs of the case.

9. WHAT HAPPENS IF I DON'T JOIN THIS CASE?

If you decide not to join this case, you will not be affected by any judgment or settlement on the Plaintiff's legal claims under the Fair Labor Standards Act. You also may not be

allowed to participate in any money damages if Plaintiff wins. You will also retain the right to sue Defendants individually if you so choose provided you do so in a timely manner.

YOUR LEGAL REPRESENTATION IF YOU JOIN

10. WHO WILL BE MY LAWYER?

The Court ordered that attorneys at The Law Offices of Gilda A. Hernandez, PLLC and Lee & Braziel, LLP may represent you and all collective action members. However, if you decide to join this case, you have the right to hire your own lawyers at your own expense. You can contact either firm to learn more information about them, their practice, and their lawyers' experience at the information listed below:

Gilda A. Hernandez THE LAW OFFICES OF GILDA A. HERNANDEZ, PLLC 1020 Southhill Dr., Ste 130 Cary, NC 27513 Tel: (919) 741-8693 Fax: (919) 869-1853 ghernandez@gildahernandezlaw.com	J. Derek Braziel Texas Bar No. 00793380 LEE & BRAZIEL, LLP 1801 N. Lamar St. Suite 325 Dallas, TX 75202 Phone: 214-749-1400 Fax: 214-749-1010 jdbraziel@l-b-law.com
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11. HOW WILL THE LAWYERS BE PAID?

The Class Representative has entered into a contingency fee agreement with Class Counsel. Under this agreement, you are not responsible for paying out of pocket any of the attorneys' fees or costs expended in the lawsuit. By returning the two forms enclosed, you are agreeing to be bound by this agreement. Class Counsel will be paid as follows: (1) if there is a settlement, Class Counsel may ask the Court to award it up to 33% of any recovery obtained in addition to reasonable out of pocket costs; (2) if there is a trial and plaintiffs prevail, Class Counsel may ask the Court to award it 33% of the award and reasonable out of pocket costs and/or may ask the Court to order defendants to pay their attorneys' fees and costs separately, on top of the award to the plaintiffs.

If you elect to opt into this lawsuit, *you will not be required to pay attorneys' fees or expenses to the Plaintiff's lawyers.* This is true regardless of whether or not you win or lose this case. The lawyers for Plaintiff will be paid only if Plaintiff wins or Defendants settle the case. If that happens, these fees will either be paid by Defendants or as a percentage of any monetary judgment in favor of Plaintiffs as ordered by the Court. *If there is no recovery, there will be no attorneys' fees paid to the lawyers.*

THE TRIAL

12. HOW AND WHEN WILL THE COURT DECIDE WHO IS RIGHT?

If the lawsuit is not resolved by a settlement or by the Court before trial, the plaintiffs will have to prove their claims at a trial. The trial would take place in the United States District Court for the Eastern District of North Carolina. During the trial, a jury will hear evidence, including the testimony of witnesses, to help them reach a decision about whether the plaintiffs are right about the claims in the lawsuit. No guarantee exists that the plaintiffs will prevail, or that they will be awarded any damages.

13. DO I HAVE TO COME TO TRIAL?

You are not required to attend the trial unless one of the parties asks you to be a witness at the trial. If Class Counsel or defendants' counsel believes that your testimony may be helpful to establishing important facts in the litigation, Class Counsel will contact you before the trial to provide more information regarding your participation in the trial.

GETTING MORE INFORMATION

If you have any questions or would like additional information, please contact Class Counsel, whose contact information is provided above in Paragraph 10.

THIS NOTICE AND ITS CONTENTS HAVE BEEN AUTHORIZED BY THE FEDERAL EASTERN DISTRICT OF NORTH CAROLINA COURT, THE HONORABLE JUDGE JAMES C. DEVER III, CHIEF UNITED STATES DISTRICT JUDGE. THE COURT TAKES NO POSITION REGARDING THE MERITS OF THE PLAINTIFFS' CLAIMS OR DEFENDANT'S DEFENSES.

DO NOT CONTACT THE CLERK OF COURT REGARDING THIS NOTICE.

CONSENT TO JOIN FORM

*Adrian Berber, et. al. v. Hutchison Tree Service, Northstar Energy Services, Inc.,
Piedmont Natural Gas, Inc and Craig Hutchison*
United States District Court for the Eastern District of North Carolina, Case No. 5:15-CV-143-D

**This IS a Claim Form. It INCLUDES you in the federal claims in this case.
ONLY use this Form if you wish join the federal claims in this case.**

I consent to become a party Plaintiff in an action against Defendants under the Fair Labor Standards Act. By joining this lawsuit, I designate the Plaintiff named in the Complaint, Adrian Berber, as my representative, to the fullest extent possible under applicable laws, to make decisions on my behalf concerning the litigation, the method and manner of conducting and resolving the litigation, and all other matters pertaining to this lawsuit. I choose to be represented by class counsel The Law Offices of Gilda A. Hernandez and Lee & Braziel, LLP.

Signature

Date

Printed Name

This form must be postmarked **on or before** _____, **2016** and returned in the enclosed envelope to:

Gilda A. Hernandez
THE LAW OFFICES OF
GILDA A. HERNANDEZ, PLLC
1020 Southhill Dr., Ste 130
Cary, NC 27513
Tel: (919) 741-8693
Fax: (919) 869-1853
ghernandez@gildahernandezlaw.com

PLEASE PRINT OR TYPE THE FOLLOWING INFORMATION:

**This information will not be made part of any public record and is necessary for
your attorney's files for litigation and possible settlement purposes.**

Name:	Any other Name(s) used or known by:
Your Current Address:	Email Address:
Cell Phone:	Home Phone:

OPT-OUT FORM

Adrian Berber, et. al. v. Hutchison Tree Service, Northstar Energy Services, Inc., Piedmont Natural Gas, Inc and Craig Hutchison

United States District Court for the Eastern District of North Carolina, Case No. 5:15-CV-143-D

This is NOT a Claim Form. It EXCLUDES you from this Class Action.

DO NOT use this Form if you wish to remain IN the Class Action.

Name: _____

Address: _____
Street City State ZIP

Telephone (Optional): _____

I understand that by opting out, I will not be eligible to receive any money that may result from any trial or settlement of this lawsuit, if there is one. I also understand that I will remain free to pursue any legal claims I may have against Defendants in a separate lawsuit.

If you wish to opt-out of the Class Action, please check the box below.

☐ By checking this box, I affirm that I wish to opt out and be excluded from the Class Action.

Date: _____

[Signature, preferably in blue ink].

Name & address of your attorney (if any):

If you choose to opt out, you must mail this Opt-Out Form to Lead Class Counsel at the following address:

Gilda A. Hernandez
The Law Offices of Gilda A. Hernandez, PLLC
1020 Southhill Dr. Ste 130
Cary, NC 27513